

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY SAN JOSE NIACT IMMEDIATE

C O N F I D E N T I A L STATE 268662

LIMDIS

E.O. 11652: GDS

TAGS: PGOV PFOR CS

SUBJECT: VESCO

REF: SAN JOSE 4613

1. WE NOTE IN PARA. EIGHT OF REFTTEL THAT VESCO HAS USED AN ARGUMENT REGARDING THE ABSENCE OF A CRIMINAL CONVICTION WHICH, BASED ON OUR CONVERSATIONS HERE WITH WELL-INFORMED COSTA RICANS, APPEARS TO BE ACCEPTED BY MANY DUE TO DIFFERENCE IN LEGAL SYSTEMS. WHILE KEEPING IN MIND THAT OUR PRIMARY CONCERN AT THIS MOMENT IS TO NOT PROVIDE GROUNDS FOR ANY BELIEF IN COSTA RICA THAT WE ARE, IN FACT, BEHIND OR MANIPULATING THE ANTI-VESCO MOVEMENT, IT APPEARS FROM HERE THAT IT WOULD BE HELPFUL TO DISPELL VERY QUICKLY THIS MISIMPRESSION VESCO IS FOSTERING. AT DISCRETION OF THE EMBASSY REGARDING DEGREE TO WHICH OUR REQUEST FOR NON-ATTRIBUTION WOULD BE RESPECTED, EMBASSY MIGHT CONSIDER BRIEFING LOCAL NEWSPAPERS ON U.S. CRIMINAL PROCEDURE BASED ON FOLLOWING PARAGRAPH.

2. UNDER U.S. LAW, A PERSON IS ENTITLED TO BE PRESENT AT
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HIS TRIAL, CONFRONT ALL WITNESSES AGAINST HIM, THAT IS,

CROSS-EXAMINE THEM, AND INTRODUCE EVIDENCE AND PRESENT WITNESSES IN HIS DEFENSE. THE USG CANNOT TAKE THIS RIGHT AWAY. IT IS, THEREFORE, NOT POSSIBLE TO TRY A PERSON "IN ABSENTIA." ONLY WHEN A PERSON FLEES THE U.S. AFTER A TRIAL

AGAINST HIM HAS BEEN COMMENCED WHILE HE WAS PRESENT CAN THE U.S. CONTINUE PROCEDURES AGAINST HIM.

3. GRAND JURY PROCEDURES ARE IN FACT, SECRET. THIS SECRECY IS, HOWEVER, MAINTAINED TO PROTECT THE INTEREST OF PRIVATE CITIZENS WHO ARE UNDER INVESTIGATION. THE U.S. ATTEMPTS TO AVOID ALL POTENTIAL EMBARRASSMENT WHICH WOULD BE ENTAILED IN PUBLIC CHARGES UNTIL A GROUP OF PRIVATE CITIZENS--THAT IS, A GRAND JURY--REVIEWS THE MATERIALS WHICH HAVE BEEN DEVELOPED BY A PROSECUTOR AND CONCLUDES THAT THERE IS SUFFICIENT REASON TO BELIEVE THAT A CRIME HAS BEEN COMMITTED BY A PERSON TO JUSTIFY PUTTING THAT INDIVIDUAL TO THE TROUBLE AND EXPENSE OF A TRIAL. MANY TIMES A GRAND JURY DOES NOT RETURN AN INDICTMENT. A GRAND JURY IS UNDER THE SUPERVISION OF THE PRESIDING JUDGES, NOT THE PROSECUTOR. IF A GRAND JURY SO CONCLUDES, A PUBLIC TRIAL IS THEN HELD AT WHICH ALL EVIDENCE MUST BE PRESENTED ANEW; A NEW JURY REVIEWS THAT EVIDENCE; THE DEFENDANT IS PRESUMED INNOCENT; HE MAY CROSS-EXAMINE WITNESSES; HE CAN BE REPRESENTED BY A LAWYER.

4. UNDER THE U.S.-COSTA RICAN EXTRADITION TREATY, USG CAN REQUEST EXTRADITION OF PERSONS WHO HAVE BEEN CHARGED BUT NOT YET CONVICTED. COSTA RICA CAN DO LIKE-WISE. KISSINGER

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